

Amendments to Senate Bill No. 309
1st Reading Copy

Requested by Senator Jesse Laslovich

For the Senate Judiciary Committee

Prepared by Greg Petesch
February 22, 2007 (6:56am)

1. Title, lines 5 through 10.

Following: "DISASTER" on line 5

Strike: remainder of line 5 through "INCIDENT" on line 6

Following: "INCIDENT;" on line 6

Strike: remainder of line 6 through "INCIDENT;" on line 8

Insert: "AND"

Following: "ENFORCEMENT" on line 8

Strike: remainder of line 8 through "DATE" on line 10

2. Page 1, line 14 through page 2, line 2.

Strike: section 1 in its entirety

Renumber: subsequent sections

3. Page 2, line 5.

Strike: "or the occurrence of an incident"

4. Page 2, line 6.

Following: "person"

Insert: "acting or"

5. Page 2, line 8 through line 9.

Strike: subsection (2) in its entirety

Insert: "(2) After a violation of subsection (1) has occurred, the party injured by a confiscation action may bring an action for damages in a court having jurisdiction.

(3) (a) As used in this section, "confiscation action" means the intentional deprivation by a person in Montana of a privately owned firearm.

(b) The term does not include the taking of a firearm from a person:

(i) in self-defense;

(ii) possessing a firearm while the person is committing a felony or misdemeanor; or

(iii) who may not, under state or federal law, lawfully possess the firearm."

6. Page 2, line 11 through page 15, line 12.

Strike: sections 3 through 18 in their entirety

Insert: "NEW SECTION. Section 2. {standard} Codification instruction. [Section 1] is intended to be codified as an

SENATE BILL NO. 309

INTRODUCED BY J. BALLYEAT

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4 A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING THE CONFISCATION OF PRIVATELY OWNED
5 FIREARMS WITHIN THE STATE FOLLOWING THE DECLARATION OF AN EMERGENCY OR DISASTER OR
6 ~~THE OCCURRENCE OF AN INCIDENT; PROVIDING CERTAIN RESTRICTIONS ON THE USE OF~~
7 ~~NONRESIDENT PEACE OFFICERS FOLLOWING THE DECLARATION OF AN EMERGENCY OR DISASTER~~
8 ~~OR THE OCCURRENCE OF AN INCIDENT; PROVIDING FOR ENFORCEMENT; AMENDING SECTIONS~~
9 ~~7-32-302, 10-3-204, 10-3-207, 10-3-1001, 44-11-101, 44-11-302, 44-11-304, 44-11-306, AND 44-11-312, MCA;~~
10 ~~AND PROVIDING A RETROACTIVE APPLICABILITY DATE."~~

11

12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13

14 ~~NEW SECTION. Section 1. State policy on confiscation of private firearms—definitions. (1) It is~~
15 ~~the policy of the state of Montana that a person may not, following the declaration of an emergency or disaster~~
16 ~~or the occurrence of an incident pursuant to Title 10, chapter 3, and while purporting to act on behalf of the state~~
17 ~~or a political subdivision of the state, confiscate a privately owned firearm of another person except as provided~~
18 ~~in [sections 1 through 5].~~

19 (2) As used in [sections 1 through 5], the following definitions apply:

20 (a) (i) "Confiscation action" means the intentional deprivation by a person in Montana of a privately
21 owned firearm.

22 (ii) The term does not include the taking of a firearm from a person:

23 (A) in self-defense;

24 (B) possessing a firearm while the person is committing a felony or misdemeanor; or

25 (C) who may not, under state or federal law, lawfully possess the firearm.

26 (b) "Disaster" has the meaning provided in 10-3-103.

27 (c) "Emergency" has the meaning provided in 10-3-103.

28 (d) "Incident" has the meaning provided in 10-3-103.

29 (e) "Interested party" includes the owner of the firearm confiscated or to be confiscated and a person

30 ~~otherwise with sufficient interest in the outcome of the issue to satisfy the constitutional prerequisites for legal~~

(OVER)

1 ~~standing for the purposes of the civil action authorized by [section 5].~~

2 ~~(f) "Peace officer" means a peace officer as defined in 46-1-202.~~

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4 **NEW SECTION. Section ^{1.}2. Confiscation of firearm by government prohibited.** (1) Following a
5 declaration of an emergency or disaster ~~or the occurrence of an incident~~ pursuant to Title 10, chapter 3, a peace
6 officer or other person ^{acting or} purporting to act on behalf of the state or a political subdivision of the state may not take
7 a confiscation action.

8 ~~After~~ (2) After a violation of subsection (1) has occurred,
9 the party injured by a confiscation action may bring an
10 action for damages in a court having jurisdiction.

11 (3) (a) As used in this section, "confiscation action"
12 means the intentional deprivation by a person in Montana of a
13 privately owned firearm.

14 (b) The term does not include the taking of a firearm from
15 a person:

16 (i) in self-defense;

17 (ii) possessing a firearm while the person is committing a
18 felony or misdemeanor; or

19 (iii) who may not, under state or federal law, lawfully
20 possess the firearm."

21 6. Page 2, line 11 through page 15, line 12.

22 **Strike:** sections 3 through 18 in their entirety

23 **Insert:** "**NEW SECTION. Section 2. {standard} Codification**

24 **instruction.** [Section 1] is intended to be codified as an
25 integral part of Title 10, chapter 3, and the provisions of Title
26 10, chapter 3, apply to [section 1]."

27 (iv) the source of the authority for bri. - END - to Montana and deploying the
28 officer in this state;

29 (b) if one party to the agreement referred to in subsection (1)(a) is a city, the agreement has been
30 approved by and filed with the county sheriff of the county in which the nonresident peace officer will be deployed
before the peace officer is deployed to the officer's duties in this state;

(c) the person to be employed, appointed, requested, used, or deputized is a citizen of the United States;

(d) the person to be employed, appointed, requested, used, or deputized reads and signs the agreement
required by subsection (1)(a) acknowledging that:

(i) the person has provided the correct information for use in the agreement;